

§ 105-164.44F. Distribution of part of telecommunications taxes to cities.

(a) Amount. – The Secretary must distribute part of the taxes imposed by G.S. 105-164.4(a)(4c) on telecommunications service and ancillary service. The Secretary must make the distribution within 75 days after the end of each calendar quarter. The amount the Secretary must distribute is the following percentages of the net proceeds of the taxes collected during the quarter:

- (1) Eighteen and seventy one hundredths percent (18.70%) minus two million six hundred twenty thousand nine hundred forty-eight dollars (\$2,620,948), must be distributed to cities in accordance with this section. The deduction is one-fourth of the annual amount by which the distribution to cities of the gross receipts franchise tax on telephone companies, imposed by former G.S. 105-20, was required to be reduced beginning in fiscal year 1995-96 as a result of the "freeze deduction."
- (2) Seven and seven tenths percent (7.7%) must be distributed to counties and cities as provided in G.S. 105-164.44I.

(b) Share of Cities Incorporated on or After January 1, 2001. – The share of a city incorporated on or after January 1, 2001, is its per capita share of the amount to be distributed to all cities incorporated on or after this date. This amount is the proportion of the total to be distributed under this section that is the same as the proportion of the population of cities incorporated on or after January 1, 2001, compared to the population of all cities. In making the distribution under this subsection, the Secretary must use the most recent annual population estimates certified to the Secretary by the State Budget Officer.

(c) Share of Cities Incorporated Before January 1, 2001. – The share of a city incorporated before January 1, 2001, is its proportionate share of the amount to be distributed to all cities incorporated before this date. A city's proportionate share for a quarter is based on the amount of telephone gross receipts franchise taxes attributed to the city under G.S. 105-116.1 for the same quarter that was the last quarter in which taxes were imposed on telephone companies under repealed G.S. 105-120. The amount to be distributed to all cities incorporated before January 1, 2001, is the amount determined under subsection (a) of this section, minus the amount distributed under subsection (b) of this section.

The following changes apply when a city incorporated before January 1, 2001, alters its corporate structure. When a change described in subdivision (2) or (3) occurs, the resulting cities are considered to be cities incorporated before January 1, 2001, and the distribution method set out in this subsection rather than the method set out in subsection (b) of this section applies:

- (1) If a city dissolves and is no longer incorporated, the proportional shares of the remaining cities incorporated before January 1, 2001, must be recalculated to adjust for the dissolution of that city.
- (2) If two or more cities merge or otherwise consolidate, their proportional shares are combined.
- (3) If a city divides into two or more cities, the proportional share of the city that divides is allocated among the new cities on a per capita basis.

(d) Share of Cities Served by a Telephone Membership Corporation. – The share of a city served by a telephone membership corporation, as described in Chapter 117 of the General Statutes, is computed as if the city was incorporated on or after January 1, 2001, under subsection (b) of this section. If a city is served by a telephone membership corporation and another provider, then its per capita share under this subsection applies only to the population of the area served by the telephone membership corporation.

(e) Ineligible Cities. – An ineligible city is disregarded for all purposes under this section. A city incorporated on or after January 1, 2000, is not eligible for a distribution under this section unless it meets both of the following requirements:

- (1) It is eligible to receive funds under G.S. 136-41.2.
- (2) A majority of the mileage of its streets is open to the public.

(f) Nature. – The General Assembly finds that the revenue distributed under this section is local revenue, not a State expenditure, for the purpose of Section 5(3) of Article III of the North Carolina Constitution. Therefore, the Governor may not reduce or withhold the distribution. (2001-424, s. 34.25(b); 2001-430, s. 10; 2001-487, s. 67(d); 2002-120, s. 4; 2004-203, s. 5(g); 2005-276, s. 33.19; 2005-435, s. 34(c); 2006-33, s. 8; 2006-66, ss. 24.1(d), (e), (f), (g); 2006-151, s. 7; 2007-145, s. 9(a); 2007-323, ss. 31.2(a), (b); 2009-451, s. 27A.2(c).)